

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Reform
the Commission's Energy Efficiency
Risk/Reward Incentive Mechanism.

FILED
PUBLIC UTILITIES COMMISSION
JANUARY 12, 2012
SAN FRANCISCO, CALIFORNIA
RULEMAKING 12-01-005

**ORDER INSTITUTING RULEMAKING TO REFORM THE COMMISSION'S
ENERGY EFFICIENCY RISK/REWARD INCENTIVE MECHANISM**

1. Introduction

This rulemaking continues implementation of reforms to the Commission's existing energy efficiency risk/reward incentive mechanism (RRIM) as a successor docket to Rulemaking (R.) 09-01-019. Although the Commission has resolved certain issues in R.09-01-019, the Commission has not yet addressed all prospective reforms for an effective Energy Efficiency RRIM.

R.09-01-019 is closed for purposes of Public Utilities Code Section 1701.5, and remains open only to consider existing petitions for modification, applications for rehearing, and requests for intervenor compensation.

This new rulemaking will thus examine the RRIM reform issues carried forward from R.09-01-019. These issues involve the design and administration of incentives for Energy Efficiency activities administered by Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company (the utilities, or IOUs).

This Order Instituting Rulemaking will thus consider reforms to the existing RRIM in a way that best provides the utilities with meaningful incentives to achieve the maximum socially-desirable level of Energy Efficiency programs and services, while protecting ratepayers' interests through appropriate accountability safeguards. Also, as part of this review, we consider whether to offer RRIM earnings, or other forms of incentives to the IOUs, at all. We consider whether there may be other, or better, ways to encourage maximum energy efficiency.

2. Background

Although the Commission has utilized various approaches to promote energy efficiency goals over time, the program in its current format became effective in September 2007 with the adoption of the energy efficiency risk/reward incentive mechanism (RRIM) in Decision (D.) 07-09-043, as under consideration in Rulemaking (R.) 06-04-010.¹ The RRIM was designed to align shareholder and consumer interests by providing a meaningful level of shareholder earnings and a return on ratepayers' investment in energy efficiency as the utilities reach towards and attempt to exceed the Commission's Energy Efficiency goals. The RRIM provides the opportunity for shareholder earnings for Energy Efficiency activity comparable with other supply-side procurement options.

RRIM rewards are calculated as a percentage of the "Performance Earnings Basis" which represents resource savings from deployment of specified energy efficiency measures. As originally designed, if utility programs realized

¹ R.06-04-010 was opened on April 13, 2006, to examine the Commission's Post-2005 Energy Efficiency Policies and Programs, Evaluation, Measurement, and Verification (EV&M), and Related Issues.

savings between 85%-100% of energy efficiency goals, the utility earned awards equal to 9% of total savings. If savings exceeded 100% of the energy efficiency goals, a 12% shared savings rate applied.²

The RRIM was designed to provide for incentive awards over a three-year cycle, with two interim installments and a final true-up. The RRIM was initially applied to the 2006-2008 cycle. As part of the RRIM adopted in D.07-09-043, the Energy Division was required to produce verification reports of utility energy efficiency costs and installations and services completed. These reports were to serve as the basis for interim and final incentive payments to utilities, if warranted.

2.1. RRIM Modifications in R.06-04-010 (Predecessor to R.09-01-019)

Prior to opening R.09-01-019, the Commission modified the RRIM design through decisions issued in R.06-04-010. In particular, D.08-01-042 modified the RRIM to allow the investor-owned utilities (IOUs) to retain interim incentive awards, not subject to refund in a true up, except where the *ex post* program performance fell within a penalty band. To mitigate the additional risk to ratepayers of overpayment of incentive awards, the award "holdback" amount was increased from 30% to 35% and *ex ante* measures used to determine incentives were required to be based on updated estimates.

² Savings between 65% and 84% were deemed to be a "deadband" range in which a 0% shared savings rate applied. Falling below 65% subjected the utilities to penalties. The penalties were considered to constitute the "risk" portion of the RRIM. Maximum limits on incentive earnings and penalties for all utilities were capped at \$450 million for the 2006-2008 cycle.

D.08-12-059 awarded a first round of interim RRIM earnings for 2006-2008. In doing so, the Commission further modified the RRIM, basing incentive awards only on the utility claims, rather than on the Energy Division interim verification report. To mitigate the ratepayer risks of awarding incentive payments based on utility claims, the Commission held back 65% of awards for further review.

2.2. Further RRIM Developments Conducted in R.09-01-019

Since only the first round of 2006-2008 interim incentive claims was awarded in D.08-12-059, in R.06-04-010, the remaining rounds of 2006-2008 incentive claims were addressed in the successor docket, R.09-01-019, as well as consideration of RRIM program redesign. Because the utilities had already received their first interim awards of 35% of their claims in D.08-12-059, we anticipated in opening R.09-01-019, that the Energy Division Evaluation, Measurement and Verification (EM&V) report would be moot as a basis for interim incentive payments. R. 09-01-019 recognized, however, that the EM&V report may be used for informational purposes concerning program performance and future planning.

In D.09-12-045, the Commission awarded a second round of interim incentive payments for the 2006-2008 incentive cycle, applying a 12% shared savings rate to the Energy Division's updated calculation of resource savings. The IOUs received a third and final RRIM payment for 2006-2008 program activity in D.10-12-049, in which the Commission eliminated the requirement to base final incentive awards on updated ex post evaluations. D.10-12-049 also modified D.07-09-043 by reducing the shared savings rate from 12% to 7%. This reduction was intended to reflect the lower risk to the utilities as a result of

eliminating the requirement that incentive payments be based on updated *ex post* evaluations.

Also in D.10-12-049, we authorized the utilities to apply for energy efficiency incentive awards for 2009 program activities using the formulas and framework generally used for the 2006-2008 RRIM true up. In D.08-10-027, the Commission had authorized the utilities to extend their 2006-2008 energy efficiency programs into 2009 as a bridge year pending approval of an updated program portfolio for a subsequent cycle. We awarded the utilities RRIM earnings covering 2009 program activity in D.11-12-036.

2.3. Prospective RRIM Reform Previously Considered in R.09-01-019

The Commission has not yet determined a framework to ensure that the IOUs have the appropriate incentives to aggressively pursue energy efficiency goals for program activity subsequent to the 2009 Bridge Year to the 2006-2008 Cycle. The Commission, however, has previously developed some record on this issue in R.09-01-019.

On April 1, 2009, the Energy Division served a “White Paper on Proposed Energy Efficiency Risk-Reward Incentive Mechanism and [Evaluation, Measurement, and Verification] EM&V Activities.” (White Paper). The White Paper was incorporated into the record in R.09-01-019³ via ruling on April 26, 2009. On April 29, 2009, parties filed comments on the White Paper, and on May 11, 2009, filed reply comments.

³ The ruling was jointly issued by assigned Commissioner Bohn in R.09-01-019 and assigned Commissioner Grueneich in A.08-07-021 et al.

On May 22, 2009, parties filed proposals for prospective changes in the RRIM. Responses were filed on June 12, 2009. To discuss the proposals, a workshop was convened on July 15, 2009. Parties filed post-workshop comments on August 7, 2009 and replies on August 19, 2009. No evidentiary hearings were conducted.

An Administrative Law Judge's (ALJ) Proposed Decision on prospective RRIM reform was mailed for comment in R.09-01-019 on November 15, 2010, but was subsequently withdrawn without further consideration by the Commission.⁴

Most recently, Commissioner Ferron issued an Assigned Commissioner's Ruling (ACR) in R.09-01-019 on August 30, 2011, to refresh the record on prospective RRIM issues. Comments on that ACR were filed on September 23, 2011, and reply comments were filed on October 7, 2011. A subsequent ACR, issued on December 16, 2011, called for additional comments and record development. Comments on the December 16, 2011 are currently due on January 17, 2012, and reply comments are due on January 30, 2012.

3. Preliminary Scoping Memo

We include a preliminary scoping memo in this Order Instituting Rulemaking (OIR). (Rule 7.1(d) of the Commission's Rules of Practice and Procedure (Rules).) As discussed below, this is composed of the issues, preliminary determination of category, preliminary determination of need for hearing, and schedule. This rulemaking is instituted on the Commission's own motion to adopt, repeal, or amend rules, regulations, and guidelines for the electric and gas utilities named herein, under the authority of Rule 6.1. The

⁴ Between September 2009 and November 2010, the focus of R.09-01-019 was on determining RRIM adjustments for the 2006-2008 Cycle.

preliminary scoping memo for this rulemaking identifies the issues which are under consideration in the proceeding.

3.1. Overview of Issues

The issues in this OIR relate to the determination and adoption of appropriate reforms for a new or revised RRIM to thereby provide incentives for IOUs to meet and exceed the Commission's goals for verifiable and socially-desirable energy efficiency program savings, while protecting ratepayers through appropriate accountability and cost containment mechanisms. Conservation and energy efficiency are first in the Commission's loading order of electricity and natural gas resources. While the Commission remains fully committed to promoting energy efficiency as a top priority, it is appropriate to reexamine the premise that an annual RRIM shareholder payment is necessary to secure the IOUs' commitment to energy efficiency. As noted above, we shall also consider whether there may be other ways to encourage maximum energy efficiency.

We originally expected the RRIM to function as a ministerial process under the procedures adopted in D.07-09-043. The RRIM processes, however, have proven to be quite complex and not as easily or as timely resolved as originally anticipated. The RRIM has encountered repeated controversy, delay, and attempts to redesign it.

In R.09-01-019 we developed a revised incentive framework for the remainder of the 2006-2008 cycle, and for the 2009 Bridge Year Programs. We have not yet developed a new long-term incentive framework for 2010 and beyond, however. In R.09-01-019, we have completed the review and award of incentives for activities through the program year 2009. We open this successor OIR to consider additional or alternative modifications and streamlining of the

incentives applied to energy efficiency activities for program activities for program cycles 2010-2012 and beyond to promote achievement of the Commission's energy efficiency goals in the most effective manner.

3.2. Time Frame for Applying Prospective Incentive Design Measures

Our updated focus for this OIR is to consider how an incentive program should be designed and applied prospectively. In terms of chronological-sequence, we first must consider incentive design for purposes of the 2010-2012 program cycle. In addition, in R.09-11-014, the Commission is currently considering how the energy efficiency program should be changed for the post-2010-2012 program cycle, including the need for a transition period for the 2013-2014 time horizon.⁵

Accordingly, this OIR will also consider further potential incentive reforms or modifications that may be warranted for the 2013-2014 time horizon or beyond. The RRIM needs to be designed contemporaneously in coordination with the guidance and design for the most current program portfolio. Since the 2013-2014 energy efficiency portfolios must be developed and approved in 2012, this OIR shall consider how the RRIM may need to be designed and applied differently in distinguishing 2010-2012 and 2013-2014 program changes.

In the 2013-2014 timeframe, there may be a greater emphasis on programs designed for deeper savings, measures with higher up-front costs and longer design lives, and market transformation efforts (with correspondingly increased

⁵ The ACRs issued in R.09-01-019, dated August 30, 2011, and December 16, 2011, respectively, have solicited comments and data to develop the record on these issues. As discussed in this OIR, we incorporate this record from R.09-01-019 into this proceeding.

challenges associated with program participation levels and achieving savings from these programs). As a result, incentives may need to be calibrated to the different types of programs in the portfolio, with programs addressing harder-to-achieve savings rewarded at a different incentive rate than programs with easier-to-achieve savings.

3.3. Use of *Ex Ante* Estimates Versus *Ex Post* Evaluated Savings for Incentives

As the latest attempt to remedy perceived problems with the RRIM design, the Commission modified the RRIM in D.10-12-049 to impute *ex ante* measures instead of relying on verified *ex post* results, as originally intended when the RRIM was instituted in D.07-09-043.

Yet, this latest version of RRIM may not be ideal for prospective RRIM design. For example, awarding incentive earnings based on *ex ante* measures may reduce the motivation for the utilities to be innovative and continuously improve their programs towards achieving higher energy efficiency savings. Designing an RRIM based on *ex ante* measures with no *ex post* true-up means that an IOU receives the same incentive earnings whether or not actual results for any given energy efficiency program are inferior or superior relative to an *ex ante* assumption. On the other hand, basing incentive earnings on the *ex ante* assumptions used at the time the programs were approved provides greater certainty to the IOU in planning and implementing program goals. Thus, this OIR will consider whether a prospective RRIM based on *ex ante* assumptions and whether, or to what extent, there should be *ex post* true-ups.

3.4. Incentive Design Relative to Changing Focus of Program Activities

This OIR will also reexamine the premises underlying the RRIM in view of the changing focus of the approved budget of energy efficiency portfolio programs for 2010-2012, with an increasing emphasis on longer term strategic programs rather than short term savings. Under the current RRIM, earnings are awarded as a percentage of net benefits calculated using the Total Resource Cost and Program Administrator Cost methodology. Relying on the present-value of future savings and the emphasis on first-years savings embedded in these methodologies provides higher net benefits for measures with higher short-term savings. Such incentives may encourage the utilities to shift portfolio resources away from market transformation programs and more comprehensive measures designed to produce long-term savings (i.e., insulation of existing buildings) in favor of programs and measures that produced shorter-term savings that increased RRIM earnings (such as compact fluorescent lights and refrigerator rebates).

Based on the changing emphasis toward longer term strategic market transformation goals, an RRIM premised on rewarding short-term savings may no longer be the most effective tool to promote the Commission's goals as embodied in the California Long-Term Energy Efficiency Strategic Plan.⁶

⁶ On September 18, 2008, the Commission adopted California's first integrated long-term Strategic Plan framework for achieving maximum energy savings as the highest priority resource in meeting energy needs.

3.5. Incentives to Facilitate Energy Efficiency through Customized Projects

The RRIM is also not currently well designed to provide the IOUs with an incentive to increase efficiency savings through the provision of customized projects. Because customized projects require unique calculations for each project, the Commission did not adopt *ex ante* values for the portion of the 2010-2012 portfolio budget related to custom projects. Instead, the Commission adopted a review process for individual projects on a case-by-case basis and a default realization rate for projects that are not reviewed. Since a significant portion of the 2010-2012 portfolio is anticipated to include customized programs, this OIR will consider how an RRIM shared savings percentage could be calculated (or how alternative incentives may be designed) to provide an incentive to increase efficiency savings utilizing all relevant portfolio programs, including custom measures.

4. Preliminary Determination of Category

We preliminarily determine that the category of this proceeding is ratesetting. (Rules 1.3(e) and 7.1(d).) We preliminarily determine that ratesetting is the most suitable category for this rulemaking, since the incentive payments that result from the RRIM will have an impact on utility rates.

5. Preliminary Determination of Need for Hearing

We must preliminarily address the need for hearing. (Rule 7.1(d).) Although we expect that many of the issues may be resolved through the formal filing of comments and replies, we preliminarily determine that hearings may be needed, at least on some issues.

6. Respondents

The Respondents to this rulemaking are Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company.

7. Parties, Service List and Electronic Service

This proceeding is a successor to R.09-01-019. Therefore, we continue the service list from R.09-01-019. This includes the existing classification of each person or entity in the category of party, state service or information only. Persons or entities on the R.09-01-019 service list do not need to take any further action to be on the new service list in the same category in this proceeding.

Persons or entities who are not on the current service list but who wish to be added as a party may do so by filing comments on this OIR. (*See* Rule 1.4(a)(2)(ii).) The comments should specifically state in a clearly identified separate section of the document that the person or entity wishes to become a party.⁷ Persons may also request party status at the prehearing conference (PHC) (if one is held), or by the filing and service of a motion. (Rule 1.4(a)(3) and (4).) Persons who wish to be in the state service or information only category may do so by letter to the Process Office.

It is the responsibility of each person or entity to notify the Process Office of his or her current postal service mailing address, current electronic-mail address, and any changes or corrections. (Rule 1.9(e).) The Process Office may

⁷ For the necessary information (e.g., name, organization, address, phone, e-mail) please refer to the Commission's form titled "Request for Addition/Change to Official Service List" which is available on-line on the Commission's web page: <http://www.cpuc.ca.gov/PUC/forms/>. A completed form should be attached to the party's comments.

be reached via e-mail at: process_office@cpuc.ca.gov; or via mail at: Process Office, CPUC, State Office Building, 505 Van Ness Avenue, San Francisco, California 94102. The service list will be posted on the Commission's web site, at www.cpus.ca.gov. Parties must use the latest service list for service of each pleading over the course of this proceeding.

Commission practice is to allow only one person to formally represent each party. (See Request for Addition/Change to Official Service List.) At present, a few parties list more than one person. In those cases, parties should identify the lead representative and notify the ALJ within 10 days of the date this OIR is mailed of the name of the lead representative. The other persons will then be moved to the information only category.

Any person interested in participating in this rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in Los Angeles at (213) 576-7055 or toll free (866) 849-8391; or in San Francisco at (415) 703-2074, or (866) 849-8390 (toll free), or (866) 836-7825 (TTY - toll free) or (415) 703-5282 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

All formally filed documents must be filed with the Commission's Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains the Commission's filing requirements.

Service of documents in this proceeding shall be made by electronic mail consistent with the Commission's Rules of Practice and Procedure 1.9 and 1.10. In addition, a hard copy of all documents shall be mailed to the ALJ and Commissioner.

8. Schedule

We adopt the following preliminary schedule.

Since this new rulemaking is the successor docket to R.09-01-019, parties that were planning on filing comments in R.09-01-019 in response to the previously referenced December 16, 2011 ACR should instead incorporate those comments in their initial comments filed and served in this new OIR. We shall thus treat the comments offered in response to the December 16, 2011 ACR, previously issued in R.09-01-019, as the initial comments in response to this OIR.

The ACR previously set the date of January 16, 2012, as the due date for comments. In order to provide adequate time for parties to receive and review this new OIR, we shall defer this due date for the filing and service of comments responsive to the ACR. Thus, the initial comments on this OIR, incorporating responsive comments on the December 16, 2011 ACR, shall be due 10 business days after the issuance of this OIR. Reply comments shall be due 10 business days after opening comments are due.

The ACRs filed on August 30, 2011, and December 16, 2011, respectively, are hereby incorporated by reference into the record of this proceeding. We also incorporate all prior comments and rulings filed in R.09-01-019, as outlined above, relating to prospective RRIM reform proposals.

The assigned Commissioner or ALJ may set a PHC if either determines that a PHC will help with case management. Any party recommending a PHC should file a motion at the same time initial comments on this OIR are due. The motion should specifically identify the items the party would seek to address at the PHC, and provide any other relevant information to assist with the setting and conduct of an efficient and productive PHC.

A notice of intent (NOI) to claim intervenor compensation should be filed, and updates to prior NOIs filed as amendments, within 30 calendar days of the date this order is mailed, as described in Section 13 below.

The assigned Commissioner or ALJ may alter the dates for the filing of motions for PHC, initial comments, reply comments, NOIs, amendments to NOIs or other dates as necessary to promote efficient and fair administration of this proceeding.

No further schedule is set here. Rather, the assigned Commissioner will issue a Scoping Memo and Ruling after considering comments and reply comments on the OIR. The Scoping Memo and Ruling will rule on the issues, category, need for hearing, and schedule for the remainder of the proceeding. The final determination only as to category is subject to appeal. (Rule 7.6.)

This proceeding will conform to the statutory case management deadline for ratesetting matters set forth in Pub. Util. Code § 1701.5. In particular, it is our intention to resolve all relevant issues within 18 months of the date of the assigned Commissioner's Scoping Memo.

9. Objection to Category

Any person who objects to the preliminary categorization of this rulemaking shall raise such objection no later than 10 calendar days after the Commission issues this OIR.

10. Comments

Initial comments and reply comments shall be filed and served on the schedule stated above. As previously noted, the comments shall incorporate responses to the ACR issued on December 16, 2011, in R.09-01-019. Comments to this OIR shall state any objections to the preliminary scoping memo regarding the issues, category, need for hearing, or schedule. (Rule 6.2.) Comments shall also address any matter a party believes should be considered now for the purpose of scoping this OIR, and anything else necessary for the efficient, effective and equitable conduct of this proceeding.

In particular, each party should clearly state and describe the issues it recommends be considered by the Commission in this proceeding, the priority for taking up these issues, and the party's preferred schedule for addressing the issues over 18 months. Active parties should coordinate with other active parties to determine whether or not there is agreement on the issues, priorities, schedule and any other matters to be considered in this proceeding. If so, parties should file one joint comment statement reflecting consensus on issues, priorities, schedule and related matters, along with separate comments on other matters to the extent necessary.

11. *Ex Parte* Communications

This proceeding is subject to Article 8 of the Commission's Rules, which specifies standards for engaging in *ex parte* communications and the reporting of such communications. These requirements become effective upon the issuance of this OIR, based on the preliminary determination of category discussed above. Following the assigned Commissioner's appealable determination of category, the applicable *ex parte* communication and reporting requirements shall depend on such determination unless and until the Commission modifies the determinations pursuant to Rule 7.5 or 7.6.

12. Service of this OIR

We direct service by the Executive Director of a copy of this OIR on each respondent. We also direct service on the service list for R.09-01-019.

13. Intervenor Compensation

A party that expects to request intervenor compensation for its participation in this rulemaking shall file its NOI to claim intervenor

compensation in accordance with Rule 17.1. Because no PHC currently is set in this order, the NOI should be filed within 30 days of the date this OIR is mailed.⁸ The NOI may be amended within 15 days after the issuance of the Scoping Memo. (Rule 17.1(b).)

This OIR is a continuation of R.09-01-019. While it is formally a separate proceeding, it is substantially similar to the continuation of a phased proceeding. A party found eligible for an award of compensation in one phase of a proceeding remains eligible in later phases. (Rule 17.2.) We permit a party found eligible in R.09-01-019 to remain eligible in this proceeding. (Rules 1.2 and 17.2.⁹) The party should update its planned participation, potential compensation request, or other relevant information, however, if different than as stated in R.09-01-019. The party should do this in the form of an amendment to its previously filed NOI, and do so within 30 days of the date this OIR is mailed¹⁰ (and further amended, if necessary, within 15 days after the issuance of the Scoping Memo).

Today's order closing R.09-01-019 is not "the decision closing the proceeding" for the purposes of filing a request for an award. (Rule 17.3.) That is, an eligible intervenor may, but is not required to, file a request now for work performed to date. Alternatively, an eligible intervenor may subsequently file a request within 60 days of the issuance of a decision that resolves an issue on

⁸ If a PHC is held, the NOI may be filed within 30 days of the date of the PHC. (Rule 17.1(a)(1).)

⁹ Rule 1.2 provides in relevant part that, "These rules may be liberally construed to secure just, speedy, and inexpensive determination of the issues presented."

¹⁰ If a PHC is held, the update may be filed within 30 days of the date of the PHC.

which the intervenor believes it made a substantial contribution, or the decision that finally closes this matter. (Rule 17.3.)

14. R.09-01-019 is Closed for Purposes of § 1701.5

Previous decisions issued in R.09-01-019 have resolved all issues in prior scoping memos except to the extent issues are carried forward herein. (See Section 3 above.) As a result, R.09-01-019 is resolved for the purpose of compliance with § 1701.5. However, R.09-01-019 remains open, but only to the extent necessary to address pending petitions for modification and applications for rehearing.

Findings of Fact

1. It is reasonable to continue implementation and administration of the RRIM Program through a new rulemaking that is a successor to R.09-01-019.
2. It is reasonable to incorporate the record on prospective RRIM issues from R.09-01-019 into this proceeding.
3. Consistent with Rule 6.2, we expect this proceeding to be concluded within 18 months of the date of the assigned Commissioner's Scoping Memo and Ruling.

Conclusions of Law

1. A new rulemaking should be opened to continue the resolution of RRIM reform issues.
2. The record in R.09-01-019 relating to prospective RRIM issues should be incorporated into this proceeding.
3. This proceeding should extend, as necessary, for up to 18 months from the date of the assigned Commissioner's Scoping Memo.
4. R.09-01-019 should be closed for purposes of § 1701.5.

5. This order should be effective immediately to promote a smooth continuation and transition of matters from R.09-01-019 to this proceeding.

IT IS ORDERED that:

1. This rulemaking is instituted on the Commission's own motion under the authority of Rule 6.1 of the Commission's Rules of Practice and Procedure to examine the energy efficiency risk/reward incentive mechanism and to consider reforms in the incentive design or alternatives to this mechanism.

2. The issues in this proceeding are as stated in the body of this order, specifically in Section 3, "Preliminary Scoping Memo."

3. The record in Rulemaking 09-01-019, as outlined in the body of this order, is incorporated into the record of this proceeding.

4. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and the Southern California Gas Company are Respondents to this proceeding.

5. The Executive Director shall cause this Order Instituting Rulemaking to be served on Respondents, and on the service list in Rulemaking 09-01-019. Those organizations and individuals listed under the state service list and information-only categories will be served electronically only.

6. The service list in Rulemaking (R.) 09-01-019 shall serve as the initial service list in this proceeding. Persons already on the service list in R.09-01-019 need not take any action, but will automatically be added to the service list for this new rulemaking. Persons who are not already a party in R.09-01-019, and who wish to become a party to this proceeding may do so by filing comments to this Order Instituting Rulemaking. The comments should specifically state in a clearly identified separate section of the document that the person or entity wishes to become a party. Persons may also request party status by filing a

motion for party status, or appear at the first prehearing conference and fill out the “Notice of Party/Non-Party Status” form (appearance form) at that time.

7. The category for this rulemaking, as defined herein, is preliminarily determined to be “ratesetting” as defined in Rule 1.3(e).

8. Any person who objects to the preliminary categorization of this rulemaking shall raise such objection by motion no later than 10 calendar days after the Commission issues this Order Instituting Rulemaking.

9. Issues previously designated for resolution in R.09-01-019 are superseded by this rulemaking.

10. The due date for filing initial comments on this Order Instituting Rulemaking (OIR), as outlined in Section 10 above, which shall also incorporate responsive comments on the December 16, 2011 Assigned Commissioner Ruling, previously issued in Rulemaking 09-01-019, shall be 10 business days after the issuance of this OIR. Reply comments shall be due 10 business days after opening comments are due.

11. All comments and other filings in this rulemaking shall be served pursuant to the Electronic Service Protocols consistent with Rules 3.2 and 3.2.1.

This order is effective today.

Dated January 12, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners